

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

THOMAS O'NEAL,

Plaintiff,

v.

Case No. 8:20-cv-936-KKM-AAS

**AMERICAN FRANCHISE SYSTEM,
INC.; CBD AMERICAN SHAMAN,
LLC; SHAMAN BOTANICALS, INC.;
FLORIDA SHAMAN PROPERTIES, LLC;
BRANDON CARNES; and KATELYN SIGMAN,**

Defendants.

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ORDER

Plaintiff Thomas O'Neal moves for the entry of a charging order on Defendant Brandon Carnes's membership interest in F&B, LLC, a Missouri limited liability company. (Doc. 90 & 91). On September 11, 2021, Mr. O'Neal amended his earlier filed motion (Doc. 90, filed August 30, 2021) to correct two caption errors, but otherwise the later filed motion (Doc. 91) is substantively identical to the earlier filed motion.

Mr. O'Neal obtained judgment against Mr. Carnes and others for \$608,400.00. (Doc. 78). Under Federal Rule of Civil Procedure 69(a), the procedure for executing judgment "must accord with the procedure of the state

where the court is located.” Fed. R. Civ. P. 69(a)(1). Thus, Florida procedure for executing judgments applies here.

Florida Statute 605.0503(1) provides:

On application to a court of competent jurisdiction by a judgment creditor of a member or a transferee, the court may enter a charging order against the transferable interest of the member or transferee for payment of the unsatisfied amount of the judgment with interest. Except as provided in subsection (5), a charging order constitutes a lien upon a judgment debtor's transferable interest and requires the limited liability company to pay over to the judgment creditor a distribution that would otherwise be paid to the judgment debtor.

For most limited liability companies like F&B, “a charging order is the sole and exclusive remedy by which a judgment creditor of a member or member's transferee may satisfy a judgment from the judgment debtor's interest in a limited liability company or rights to distributions from the limited liability company.” Fla. Stat. 605.0503(3). The statute therefore “authorizes a court ‘to enter a charging order against a judgment debtor's transferable interest,’ and to require ‘an LLC to pay over to the judgment creditor any distribution that would otherwise be paid to the judgment debtor.’” *Kipu Systems LLC v. ZenCharts LLC*, 2021 WL 1893028 at *2 (S.D. Fla. March 15, 2021).

An August 20th order previously denied a request by Mr. O’Neal for the

imposition of a charging order on F&B and eight other Missouri LLCs. (Doc. 87). That order denied Mr. O’Neal’s request after concluding the court had no jurisdiction over the LLC membership interests in the nine Missouri LLCs held by Mr. Carnes (a Kansas resident) that are not domestic to Florida. (*Id.* at 3). Mr. O’Neal now points out F&B does have systematic and continuous membership interests and contact with the State of Florida because F&B owns at least three franchises of American Shaman CBD stores in Florida (Docs. 90, p. 3–4 & 91-2), and possibly as many as five franchises (Doc. 91-3).

To establish general jurisdiction, an LLC must have Florida affiliations “so ‘continuous and systematic’ as to render [the LLC] essentially at home in [Florida].” *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011) (*quoting Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)). The documents provided by Mr. O’Neal support the claim that F&B’s ownership of multiple stores in Florida have rendered the LLC effectively at home in Florida. *See* (Doc. 90-2 & 90-3).

In short, Mr. O’Neal has established this court’s jurisdiction over F&B and Mr. Carnes’s membership interest in F&B for the purposes of imposing the requested charging order. Accordingly, Mr. O’Neal’s motion for a charging order on Mr. Carnes’s limited liability company interests in F&B, LLC (Doc. 91) is **GRANTED**. Because the later filed motion simply amends the earlier

filed motion without substantively changing the arguments or the requested relief, the earlier filed motion (Doc. 90) is **DENIED AS MOOT**. Mr. O'Neal must file a proposed charging order with this court by **September 29, 2021**.

ORDERED in Tampa, Florida on September 15, 2021.

A handwritten signature in black ink, reading "Amanda Arnold Sansone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

AMANDA ARNOLD SANSONE
United States Magistrate Judge